ARBITRATION OFFICE OF WALTER KAWECKI, JR. ESQ.

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IN THE MATTER OF THE ARBITRATION BETWEEN:

CITRUS COMMUNITY COLLEGE DISTRICT	)	
EMPLOYER	)	
	)	**DECISION AND AWARD**
	)	
CITUS COLLEGE FACULTY ASSOCIATION	)	**of**
UNION	)	**WALTER KAWECKI, JR. ARBITRATOR**
	)	
RE: GRIEVANCE OF ELISABETH GARATE	)	**State Mediation/Conciliation Service Panel**
C.S.M.C.S. Case # ARB-06-0562	)	**November 28, 2007**
	)	

Appearances:

Arbitrator: **Walter Kawecki, Jr., Esq.**
756 Barton Way
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Employer: **Mary L. Dowell, Esq.**
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I. BACKGROUND

The arbitration hearing was held on October 4, 2007 at the Citrus Community College at 1000 West Foothill Boulevard, Library Conference Room, 137-A, in the Glendora, California.

This hearing arose pursuant to the January 1, 2006 through December 31, 2008 Collective Bargaining Agreement (CBA) between Citrus College Faculty Association

(hereafter Association) and Citrus Community College District (hereafter District) under which Grievant Elisabeth Garate, (hereafter Grievant or Garate) a tenured full- time faculty instructor of Citrus Community College District filed a timely grievance because she was not assigned Spanish 101 class, ticket number 4275 as part of her regular teaching load.

In accordance with the CBA, Walter Kawecki, Jr. was selected by the Employer and the Union to serve as Arbitrator, from a list provided by the State Mediation and Conciliation Service.

At the hearing the parties were given an opportunity to state their positions, examine and cross-examine witnesses, present documentary evidence and argue their case. The parties stipulated that the arbitration case was properly presented before the Arbitrator, and that the Arbitrator has jurisdiction and retention of the case.

The parties agreed, on the record, that they would complete closing briefs which would be submitted via email on November 19, 2007 to the Arbitrator. The parties subsequently agreed to extend the date to November 21, 2007. The parties also agreed the Arbitrator would close the hearing upon receipt of the closing briefs and have 30 days from receipt of the closing briefs to complete his decision and award. The closing briefs were timely filed.

II. STATEMENT OF THE ISSUE

Pursuant to the agreement of the parties, the following issue is presented in this case:

When, on or about December 11, 2006 and thereafter, the District did not permit Grievant to teach Spanish I, ticket number 4275, as part of her regular class load in spring 2007, did it violate the following: (1) the Collective Bargaining Agreement in Article 15,

and/or (2) R-4108, Hiring Procedures for Adjunct Faculty, and/or (3) arbiter's ruling dated August 7, 2003 regarding Ms. Amdon's overload assignment and/or (4) letter from Vice President of Instruction to all full-time faculty dated February 20, 2001 (Regarding full-time faculty schedules) and/or (5) R-4110 (submitted as board regulation for scheduling practice for summer session)?

III. STATEMENT OF THE FACTS

The following statement of the facts is supported by exhibits entered into evidence and the testimony of witnesses who testified at the arbitration hearing:

Grievant has been employed by the District as a tenured full-time instructor in the Spanish Department since 2001. A full-time instructor in the Spanish Department has a *regular* class load of 15 units. A full-time instructor may also teach additional classes for added compensation. Additional classes over the *regular* load are called *overload* classes. (Regular and overload are italicized for emphasis)

On December 11, 2006, Linda (Holly) Colville, another tenured faculty member in Spanish department, informed Sam Lee, Dean of the Language of Arts division that she would not be able to teach one of her *regular* load classes, Spanish ticket number 4275 which was scheduled to meet on Tuesdays and Thursdays 1300 to 1520 because she had to undergo some treatment for her cancer during those times. When Ms. Colville informed Mr. Lee that she needed to drop Spanish ticket number 4275, the Spring 2007 schedule had already been created and printed. However, Mr. Lee had an obligation under District policy to maintain Ms. Colville's full-time load requirements. Since Ms. Colville had an *overload* class 4271 Spanish I, which met on Monday, Wednesday and Friday from 1200 to 1330 he moved that *overload* class to Ms. Colville's *regula*r load so she would meet the full-time load requirements of fifteen units and Ms. Colville could attend her cancer treatment appointments.

On December 11, 2006, Spanish ticket number 4275 was offered to Grievant as an *overload* class in an email sent at Mr. Lee's request by Ms. Cathy Day. Ms. Day's

December 11, 2006, email incorrectly referred to Spanish ticket number 4275 as Ms. Colville's *overload*. In actuality, Spanish ticket number 4275 was part of Ms. Colville's *regular* load, and had been since 2005. On December 12, 2006, Grievant responded to the email declining the offer to teach Spanish ticket 4275 as part of her own *overload* and countered that she would teach Spanish ticket 4275 only as part of her *regular* load. Grievant also stated her belief that as a full-time faculty member she should be offered the opportunity to select her *regular* load prior to another full-time faculty member being offered a course as part of their *overload* schedule.

On December 12, 2006, Mr. Lee sent Grievant an email stating that the Grievant was correct that she had the right to choose her *regular* load before another full time faculty is assigned *overload.* Mr. Lee stated this has always been his practice. However, Ms. Day's reference to Spanish ticket number 4275 as Ms. Colville's *overload* was a mistake, because Spanish ticket number 4275 was part of, and had been part of, Ms. Colville's *regular* course load since 2005. Spanish ticket number 4271 was Ms. Colville's *overload* course. When, Ms. Colville gave up her *regular* load course Spanish ticket 4275, her overload course, Spanish ticket 4271 became part of her *regular* load. This was to ensure that Ms. Colville maintained a full-time *regular* load of 15 units pursuant to District policies. Mr. Lee's December 12, 2006, email response to Grievant also informed her that she had previously rejected his offer to teach Spanish ticket 4271, which thereafter became Ms. Colville's *overload* course. Mr. Lee's December 12, 2006, email again offered Grievant the opportunity to teach Spanish ticket number 4275 as part of her *overload*, and told her that it was too late to rearrange *regular* load schedules based on preferences. Mr. Lee informed the Grievant if she did not want to add 4275 as an *overload* it would be offered to an adjunct instructor. Mr. Lee asked the Grievant to please let him know ASAP.

On December 13, 2006 the Grievant sent an email to Mr. Lee thanking him for his reply; however the Grievant stated that since he not yet assigned 4275 to an adjunct, there

was no reason that the class cannot be assigned to her as her *regular* load.

On December 14, 2006 Mr. Lee sent an email to the Grievant stating he did not have an instructor available to take one of the three sections she would have to give up in order to take 4275 as part of her *regular* load. Further he informed the Grievant that if she wanted 4275 as *overload,* please let him know by 10 a.m. tomorrow. If she did not take it, he would need to make some assignment changes just to make the adjunct schedules work and it would not be fair to students to make extra schedule changes after they have enrolled.

On December 15, 2006 the Grievant sent an email to Mr. Lee expressing her disappointment. The Grievant said she failed to see how Mr. Lee's lack of time prevents him from allowing her to teach the 1p.m. Spanish class ticket number 4275. The Grievant stated she was ready, willing, and able to teach the class 4275 as part of her *regular* schedule. However, she was not willing to teach the class as an *overload* because to do so would fly in the face of her notion of fundamental fairness.

On December 15, 2006 Mr. Lee sent an email to the Grievant thanking her for getting back to him and stating he was sorry she can't take the 4275 course as *overload*. Additionally, he stated he would be in next week on Monday, Wednesday and Thursday and was available to meet with her to talk more about her schedule requests.

When Mr. Lee learned that Ms. Colville needed to drop Spanish ticket number 4275 on or about December 11, 2006 the Grievant already had a full-time class load, so Spanish ticket 4275 was offered to her only as an *overload*. Mr. Lee did not offer Spanish ticket 4275 to Grievant as part of her *regular* load because Mr. Lee testified that pursuant to District policy he would also have had to offer the class to all other full-time members of the faculty. Moreover, if Spanish ticket number 4275 had been offered to any full time faculty member as a *regular* load course it would have been offered based on seniority, which would mean that Grievant would not have been given the first opportunity to teach this course. And, if Grievant had been allowed to teach Spanish

ticket number 4275 as part of her *regular* load, then in compliance with the College's scheduling policy, Mr. Lee also testified that he would have to offer any *regular* load course Grievant "dropped" to all of the other full-time faculty members in the Spanish Department. Additionally, Mr. Lee would also have to offer the other full-time Spanish Department members the opportunity to modify their *regular* load schedules to teach any course dropped by Grievant. As a result, if any of the full-time faculty wanted to modify their *regular* course loads, Mr. Lee would also need to offer any of their "dropped" *regular* load courses to his full-time faculty before he could offer the courses to an adjunct. This domino effect would continue and the offerings would have to be repeated until all full-time faculty members had full *regular* loads and then any "left-over" courses could be assigned to an adjunct.

Testimony was offered that the last day of the Fall Semester was December 15, 2006, and Final Exams were administered during the period of December 11-15, 2006. The College shuts down during winter break. The winter break shut down is different from the summer and spring breaks, because the collective bargaining agreement for classified employees (i.e. non-teaching) stipulates that all classified employees must be off for eight days during that time. The College remained open during the beginning of the week of December 18, 2006. But, the staff was off the entire week of December 25, 2006, during which time the College went dark. The College did not have a full staff again until January 5, 2007. During the winter break, the majority of management also takes off during the eight days that the College shuts down because the air conditioning and heating is turned off in the buildings during those times.

On February 9, 2007 the Grievant filed a level one grievance stating she was offered a vacant class (meaning 4275) as an overload assignment but she was denied the opportunity to be assigned the class part of her contract or *regular* load. The Grievant claimed the District violated Article 15 of the CBA, R-4108, hiring procedures for adjunct faculty, Arbiters ruling dated August 7, 2003 – Kaye Amdon Overload

Assignment, Letter from VP of Instruction dated February 20, 2001- FT faculty schedules and R4110. This grievance continued forward to the current arbitration hearing.

During the arbitration hearing the Grievant testified that in the Fall 2006 Ms. Colville had to give up her entire schedule and Mr. Lee offered the Grievant one of Ms. Colville's regular load classes after the Grievant was already assigned her *regular* load schedule. The Grievant gave up one her *regular* load class that was assigned by Mr. Lee to an Adjunct faculty.

Mr. Lee then testified that he did agree with the Grievant to make a change to her *regular* load during June 2006, after her *regular* load was scheduled to take one of Ms. Colville *regular* Fall 2006 teaching load classes, Spanish ticket 4834 because Ms. Colville was forced to give up her entire Fall 2006 teaching load due to illness. Mr. Lee offered Spanish ticket number 4834 to Grievant who requested that it become part of her *regula*r load.

Mr. Lee testified that change occurred in approximately June of 2006, and classes for the Fall 2006 semester began on August 14, 2006. In that case, Mr. Lee had approximately two to three months to make changes to the Spanish Department's Fall 2006 schedule. Mr. Lee testified he was able to accommodate Grievant, because he had just hired an adjunct faculty member who was available to teach the class that Grievant wished to drop out of her previously established *regular* load and he had time to make the change.

IV. DISCUSSION AND DECISION

The following analysis compares the stated facts, which are not in dispute, with the meaning and interpretation of the following: (A) the Collective Bargaining Agreement in Article 15 between Citrus College Faculty Association and Citrus Community College District and (B) the Arbitrator's Ruling dated August 7, 2003 in the *Kaye Amdon g*rievance regarding *overload* assignments, and (C) the letter from the Vice President of Instruction and Student Services dated February 20, 2001, regarding Full-

time faculty schedules and (D) Board Regulations R-4108, Hiring Procedures for Adjunct Faculty, and (E) R-4110 regarding summer session employment. Specifically, when Grievant was offered Spanish ticket number 4275 only as an *overload* class and denied the right to have 4275 as a *regular* load class in lieu of one of her already scheduled *regula*r load classes did the District violate the CBA, Arbitrator's ruling in Amdon or any of the regulations stated above .

A. Did the District violate Article 15 of the Agreement between CCFA and Citrus Community College District?

Article 15 is titled Overload Assignments. The entire article is quoted as follows: "Qualified unit members shall have first priority on all paid overload assignments which are vacant and for which the unit member qualifies."

Here, the plain language of the contract grants a right to qualified unit members of first priority on all paid *overload* assignments which are vacant. It is silent as to *regular* assignments. "*Regular* load" and "*overload*" are terms of art in the academic setting which the parties clearly understood during the arbitration hearing and are explained in the stated facts above. The omission of the word "*regular* load" when "*overload"* was included leads to the reasonable conclusion that the parties to the contract did not intend the "first priority" right set out in Article 15 to apply to *regular* load classes.

When the Spanish ticket number 4275 class became available, Mr. Lee gave Grievant first priority for the opportunity to teach Spanish 4275 as an *overload* class before he hired an adjunct faculty member. Grievant was clearing qualified to teach this course. Grievant was offered the opportunity to teach Spanish ticket number 4275 as part of her *overload* on December 11, 2006. Article 15 of the Agreement does not state that when a class becomes available, it must be offered as part of a *regular* load. Further, Article 15 of the Agreement specifically states that it applies to vacant *overload* courses, not vacant *regular* load courses. Grievant declined to teach Spanish ticket number 4275 as an *overload* course. The adjunct faculty member, Ms. Fleischer, was only hired after

Grievant turned down repeated offers to teach Spanish ticket 4275 as an *overload.* Mr. Lee attempted to explain the reasons he could not honor the Grievant's request to offer her Spanish ticket 4275 as part of her *regular* load. Mr. Lee explained the time constraints he was working under on December 11, 2006. The Grievant did not accept his reasons. However, Mr. Lee has no contractual obligation to explain why he declined her request to substitute one of her *regular* classes for Spanish ticket 4275.

Grievant raised the fact that Mr. Lee substituted one of her *regular* load classes at her request for another *regular* load class, Spanish ticket number 4834 which was dropped by Ms. Colville for health reasons in June of 2006 for a Fall 2006 teaching class, after her *regular* load was established. This raises a question of past practice in the interpretation of the Collective Bargaining Agreement, specifically, Article 15.

Mr. Lee testified he had just hired an adjunct faculty who he knew was available to teach the class that Grievant wished to give up to substitute 4834 for her *regular* class load. Additionally, unlike this case, Mr. Lee knew that he a couple of months to find someone to pick up the *regular* load class that Grievant wished to drop. In this case, Ms. Colville did not inform Mr. Lee that she needed to drop Spanish ticket 4275 until December 11, 2006 for a semester class that began on January 8, 2007 and Mr. Lee did not know of an available adjunct faculty to teach the class.

Custom and past practice is relevant to consider in contract interpretation. There are specific elements which must be presented to render a past practice enforceable through arbitration. They are (1) The conduct that is followed or allowed is clear and consistent; (2) The conduct has occurred consistently over a long period of time and (3) Employees, employee organizations and supervisors have knowledge of the conduct establishing mutuality or agreement.

In this case the Grievant provided evidence of *only one time* Mr. Lee substituted a *regular* class, ticket 4834 for one of Grievant's *regular* class loads. Additionally, the factually circumstances affecting Mr. Lee's decision were different in terms of time and

available adjunct faculty. Therefore, the conduct was not clear and consistent, it failed to occur over a long period of time and it is not considered past practice which would alter the meaning an interpretation of Article 15 of the CBA.

Based on the foregoing, Grievant offers no evidence that Article 15 of the Agreement was violated.

There is no provision in Article 15 that requires Mr. Lee to change Grievant's *regular* schedule just because another course becomes available that she prefers. The Agreement merely requires Mr. Lee to offer the course first to qualified unit members as *overload,* which he did in this case. Therefore, there was no violation of Article 15.

B. Did the District violate he Arbitrator's Ruling in the *Kaye Amdon* Grievance, dated August 7, 2003 regarding Overload assignments?

In the *Kaye Amdon* arbitration case the Grievant was a full-time faculty member who was assigned six classes in the Fall 2001 semester, four as part of her *regular* load, and two *overload* classes but due to low enrollment one of her classes was cancelled and, as a result, the Grievant sought to replace the cancelled class with another *overload* assignment, which request was denied. Dean of Faculty, Mr. Lindsay, had already assigned the class to an adjunct instructor, Mr. Raddon, and refused to assign the class to the Grievant, because an agreement was made with adjunct instructor Mr. Raddon.

The opinion and holding of the arbitrator was that the CBA under Article 15 is clear that if the class is vacant, and is was in the opinion of the Arbitrator, the Grievant has first priority on all paid *overload* assignments before they are offered to adjunct faculty.

However, in the current case, Grievant Garate *was* offered the opportunity to teach Spanish ticket 4275 as an overload, *before* it was assigned to an adjunct faculty.

Unlike the faculty member in the *Kaye Amdon* matter, Grievant rejected multiple offers to teach Spanish ticket 4275 as part of her *overload* before the course was assigned

to an adjunct faculty member. Grievant demanded that Mr. Lee find someone to teach her previously assigned *regula*r load course so that she could teach Spanish ticket number 4275 as part of her *regular* load. Because of the short time-frame before the end of the Fall 2006 semester, Mr. Lee was unable to find someone to teach the course that Grievant wished to drop. Grievant, who was given priority to teach this course, and rejected Mr. Lee's repeated offers to teach Spanish 4275 as an *overload* class prior to Mr. Lee offering it to an Adjunct faculty. This matter is clearly distinguishable from the *Kaye Amdon* grievance. There was no violation of the previous arbitrator's decision, and in fact Mr. Lee's offer to the Grievant of assigning ticket 4275 as an *overload* position before Mr. Lee offered it to Adjunct faculty is in full compliance with the Arbitrator's ruling in the Kaye Amdon overload arbitration case. Therefore, the District did not violate the Arbitrator's ruling in Kaye Amdon grievance.

C. Did the District violate the Letter from the Vice President of Instruction and Student Services, dated February 20, 2001 regarding Full-time Faculty schedules?

On February 20, 2001, the Vice President of Instruction and Student Services sent a letter to all full-time faculty that set forth the principles behind the College's assignment of full-time and adjunct faculty schedules. The letter states that faculty shall be assigned as follows: 1) full-time loads are scheduled first with input from each full-time faculty member, 2) then full-time faculty *overload*, and 3) then adjunct faculty assignments. The letter lists other important factors that should be considered when making class load assignments, number and level of available courses/hours in a discipline, teaching preferences of full-time faculty, qualifications of full-time faculty, experience of full-time faculty, and availability of qualified adjunct faculty.

In keeping with the February 20, 2001 letter of instruction, Mr. Lee testified that he went through a long time consuming process of establishing full-time faculty scheduling loads with input for each full-time faculty member. He then assigned full-time

faculty *overload* and finally after these two steps were completed during the last few week before the semester started he assigned adjunct faculty. He also testified he considered the other elements of teaching preferences of full-time faculty, qualifications, experience of full-time faculty and availability of adjunct faculty.

In the instant case Mr. Lee offered Spanish ticket 4275, which was part of Ms. Colville's *regular* load, to Grievant *before* it was offered to an adjunct faculty member. As noted above, Ms. Day's email in which she referred to Spanish ticket 4275 as Ms. Colville's "*overload"* was a mistake because Spanish ticket 4275 was and had been part of Ms. Colville's regular load since 2005. Ms. Colville's overload course was Spanish ticket 4271, which had previously been declined by Grievant before it became part of Ms. Colville's *overload*.

Grievant refused to teach Spanish ticket number 4275 unless she could teach it as part of her *regular* load. This would have required her to drop a course from her previously scheduled *regular* load. This all took place only about one week before winter break, when the College closed down from approximately December 22, 2006 to January 5, 2007. Mr. Lee testified he was unable to find an adjunct faculty to teach the course that Grievant wished to drop and that it would cause a serious domino affect, in terms of assigning potential open classes with only a very short window period to complete scheduling before classes started on January 8, 2007 if he honored the Grievant's request to substitute one of her *regular* load classes for 4275.

While teaching preferences of full-time faculty is one of the other important factors to consider, it does not over ride the first three primary elements that are addressed above, and for which Mr. Lee clearly followed in scheduling the Grievant's class load. There is no provision in the letter that required Mr. Lee to change Grievant's *regula*r class load once it has been established. Mr. Lee offered Ms. Colville's course, Spanish ticket 4275 to Grievant, who refused to teach the course as an *overload*, before he offered the course to an adjunct faculty. Therefore, the District did not violate the

Full-time Faculty Scheduling letter dated February 20, 2001.

D. Did the District violate Board Regulations R-4108, Hiring Procedures for Adjunct Faculty?

Citrus Community College District Regulation R-4108 is titled Hiring Procedures for Adjunct Faculty. As the title suggest this regulation describes the procedures for hiring adjunct faculty members for vacancies at the College. The only part of R-4108 that applies to full time faculty members and this case is paragraph 3 titled filing a vacancy. It states the following:

"The following procedure will be used to secure an adjunct faculty member for a vacancy.

Offer the class first to any interested qualified full-time faculty member:

A. If the assignment of the full-time faculty member is found to be to the benefit of the department as determined by the appropriate Dean of Faculty, and the Vice President of Instruction.
B. To fulfill the faculty member's full-time load requirements.
C. If adding the class does not exceed the maximum for overload assignments for full-time as defined by the Board of Trustees."

'The District argues the following: Mr. Lee did not violate Board Regulation R-4108, entitled "Hiring policy for Adjunct Faculty" when he hired Ms. Fleischer to teach Spanish ticket number 4725. To fill a vacancy pursuant to Board Regulation R-4108, Mr. Lee was obligated to offer the class first to an interested, qualified full-time faculty member. The regulation does not specify whether the class must be offered to a full-time faculty member as part of their regular load or as part of their overload. Further, Grievant offered no evidence, and there is no evidence anywhere on the record, that the regulation should be interpreted in the way she urges. When Grievant was offered the opportunity to teach Spanish ticket 4275 as part of her overload, she already had a full class load as required by District policies. Because Grievant already had a full class load, Mr. Lee had no obligation to offer her Spanish ticket 4275 as part of her regular load. There is no

dispute that Mr. Lee offered Spanish ticket number 4275 to Grievant as overload before he hired Ms. Fleischer. Grievant herself testified that the course was offered to her as an overload before it was given to an adjunct faculty member. Thus, there was no violation of Board Regulation R-4108.

'The Association argues the following: Regulation R-4108 lays out the rules for filling vacancies at the College. When a class is vacant, the District must "offer the class first to any interested qualified full-time faculty member….to fulfill the faculty member's full-time load requirements". The interested faculty member also has the option of taking the class as an overload assignment, as long as he or she has "not exceed the maximum for overload assignments for full-time faculty" If the District cannot find any full-time faculty members who want the class as part of their regular full-time load or as an overload assignment, then-and only then- the District may offer the class to a part-time employee.''

"The Association continues to argue that in this case, *Grievant* Elisabeth Garate, a full-time faculty member, requested to take the vacant course 4275 in order to "fulfill her full-time load requirements". The District denied her request, and passed her over in favor of a part-time employee. The District's actions, on their face, violated the clear language of Regulation R-4108. Indeed, Dean of Language Arts Samuel Lee, who ultimately made the decision to hire a part-time employee to teach course 4275, admitted that he did not consider whether or not he was complying with Regulation R-4108 when he assigned course 4275 to a part-time employee."

The Association also argues that the District's reading of Regulation R-4108 should be resisted because it is well-established rule the interpreter of a statute may not add language…absent a manifest error in drafting or un-resolvable inconsistency and in this case, no error or inconsistency exists. Additionally, the Association argues that the regulation clearly mandates priority to full-time employees when selecting their regular load classes or their overload classes and where the statute is clear, it "must be read as it

was written" Furthermore the Association argues the District's reading of the regulation is implausible in context because it adds conditional requirements that do not exist.

The Arbitrator has carefully reviewed the arguments of both the District and Association and the stated facts as compared to the Arbitrator's interpretation of the relevant language in R-4108 and finds as follows:

The undisputed facts show that the Grievant's full time load of classes was established prior to December 11, 2006. Additionally, Ms. Colville's full-time load requirements had been established prior to December 11, 2006, which had included 4275. Therefore, some time prior to December 11, 2006 the District had met its obligation to fulfill the Grievant and Ms. Colville's full-time load requirements.

When Ms. Colville had to relinquish Spanish ticket number 4275, which was part of her *regular* load for health reasons, Mr. Lee offered this class to the Grievant as an *overload* to her already existing full-time load requirements. It is clear that the District had satisfied its obligation under R-4108, par. 3 B to fulfill the Grievant's full-time load requirements prior to December 11, 2007. Mr. Lee testified that offering 4275 to the Grievant as an overload assignment was found to be to the benefits of the department, therefore, he met R-4108, par. 3 A. Additionally, offering 4275 as an overload to the Grievant followed the requirements of R-4108 par. 3 C.

Mr. Lee also had the contractual obligation under Article 15 of the CBA to offer overload positions to full-time faculty before offering them to adjunct faculty and he met this requirement in offering 4275 to the Grievant. It was only after the Grievant refused to take 4275 as an overload did Mr. Lee offer 4275 to adjunct faculty.

Based on the foregoing the District did not violate R-4108, regarding hiring procedures for adjunct faculty.

D. Did the District violate Board Regulation R-4110 titled "Summer Session Teaching Employment?

This board regulation applies to the appointment of teaching assignments for

summer sessions. Board Regulation R-4110 helps administrators guide their course assignment decisions during the summer session which is a non-contract instructional period. However, Spanish ticket number 4275 was not a summer session assignment. This Grievant filed this action because she was not assigned Spanish ticket number 4275 as part of her *regular* load in lieu of one of existing *regular* load positions in December 2006. Therefore, Board Regulation R-4110 is not applicable to this action and the District did not violate R-4110.

It should also be noted that the Grievant was given preference to Spanish ticket number 4275 as an *overload* position to her existing *regular* load when it became available on December 11, 2006 and the Grievant declined it. Therefore, had the regulation applied, Mr. Lee complied with Board Regulation R-4110 because he gave preference for Spanish ticket 4275 to Grievant, who was a full-time instructor and member of the department.

V. AWARD

The Arbitrator finds the District **did not** violate the CBA, the Amdon arbitration ruling or any of the cited regulations when the District did not permit Grievant to teach Spanish I, ticket number 4275, as part of her regular class load in spring 2007. Therefore, the grievance is denied.

_____ _____

Dated Walter Kawecki, Jr. Arbitrator